

Some Problems of the Draft in Revolutionary Virginia

By E. Kidd Lockard

AS A COLONY, Virginia had been dependent for her military strength upon a militia the members of which furnished their own equipment and were paid only when in service. Each county had its own officers, including a county lieutenant appointed by the governor to regulate and discipline the militia. The governor was commander in chief of the whole and the members of his council were colonels.¹ Consequently, when Virginia determined while yet a colony to aid New England, she had a basis upon which she could lay her foundations.

The transition, however, was not made without difficulty, as a letter of one of the delegates to the convention which met in July, 1775 clearly indicates.

I have not since I came to this place, except the fast-day & sunday, had an hour which I cou'd call my own the Committee (of which I am a member) appointed to prepare an Ordinance for raising our arm'd Force for the Defence & protection of this Colony, meet every morning at seven o'clock, sit 'til the Convention meets, which seldom rises before five in the afternoon: & immediately after Dinner & a little Refreshment, the Committee sits again 'til nine or ten at night; this is hard Duty: and yet we have hitherto made but little progress: & I think shall not be able to bring in the Ordinance 'til late next week, if then: this will not be wondered at, when the Extent & Importance of the Business before us is reflected on—to raise Forces for immediate Service—to new model the whole militia—to render about one fifth of it fit for the Field at the shortest warning—to melt down all the Volunteers & independent Companies into this great establishment—to provide arms, ammunition &c, and to point out ways & means of raising money. These are Difficultys indeed!²

At length, arrangements were completed and the convention authorized the raising of some twelve hundred regulars in addition to the necessary officers. They were placed under the control of the committee of safety. As a means of further

¹ Percy Smith Fleming, *The Royal Government in Virginia 1624-1775* (Columbia Historical Society in History, Economics and Public Law, LVXXIV, No. 1, New York, 1914) 286-287.

² George Mason to Martin Cockburn, July 24, 1775, William Palmer (ed.), *Calendar of Virginia State Papers and other Manuscripts, 1623-March 31, 1781* (Richmond, 1816), I, 263.

In all cases corrections appear as in Palmer's work, including misspellings, unnecessary capitalization, and mistakes in grammar. Hereafter, this work will be cited simply as *Palmer, Calendar*.

protecting the colony, the militia were organized into minutemen. This group included free, able-bodied men, hired servants, and apprentices ranging in age from sixteen to fifty but the usual governmental classes were exempted. The minutemen thus authorized totaled 8,180. It was intended that the public should provide the necessary arms, but until such were secured the men were ordered to furnish their own. Their remuneration of one shilling and four pence a day was payable only upon attendance at the rendezvous or during actual service. The same act provided that when the new battalions were filled, the volunteer groups, which had been raised by the convention meeting in March, should be abandoned.⁵

The enthusiasm for the Revolution was so prevalent during 1775 and 1776 in Virginia, especially in the West, that it was not necessary to draft men for the Continental service. Jefferson regarded this as being of particular importance in as much as the draft was "the most unpopular and impracticable thing that could be attempted. Our people," he wrote, "even under the monarchical government, had learnt to consider it as the last of all oppressions."⁶

In order to postpone what under the circumstances was the inevitable, the assembly attempted to raise recruits through bounties. The idea of a land bounty was suggested by an act of the Continental Congress in 1776 giving land ranging from one hundred acres for privates to five hundred for colonels. Virginia with her vast unappropriated area in the West could well be lavish. She at first made grants to the officers and soldiers in both her state and Continental contingents on the terms set forth by Congress.⁷ Later, as conditions became more pressing she increased the amounts.⁸ In 1780 the assembly passed an act giving to each recruit who had enrolled or who should enroll by April, 1781 for the duration of the war "a healthy sound negro, between the ages of ten and thirty years, or sixty pounds in gold or silver, at the option of the soldier in lieu thereof, to be paid for, or procured by equal

⁵William Hening (ed.), *The Statutes at Large Being a Collection of All the Laws of Virginia from the First Session of the Legislature in the Year 1619* (Richmond, 1823), IX, 3-23.

⁶Hereafter this work will be cited merely as *Hening Statutes*.

⁷Paul L. Ford (ed.), *The Works of Thomas Jefferson* (New York, 1904), II, 84-95.

⁸Charles F. Adams (ed.), *The Works of John Adams* (Boston, 1854), IX, 438-439; *Statutes*, IX, 179, 212-214.

⁹*Ibid.*, X, 180.

assessment on property; and moreover be entitled to three hundred acres of land, in lieu of all such bounties given by any former laws."⁷ Two years later an act authorized an increase of a sixth in the amount of one's land for each year's service beyond six.⁸ In the meanwhile, the amount received by the officers had been increased to a maximum of 15,000 acres for major generals serving under six years.⁹

As a further means of encouragement, money bounties were offered. Like the land bounties, they increased in amount as the struggle progressed. In the beginning, each soldier agreeing to serve for three years unless sooner discharged was entitled to \$20.¹⁰ After a while the bounty was increased to \$150 for each person recruited for the duration of the war, but only \$100 for those engaging themselves for three years.¹¹ This practice was not unusual in the distribution of bounties as the officials were desirous of obtaining stable fighting forces. The amount was increased from time to time¹² until a law in 1780 provided \$12,000 bounty for service rendered for the duration of the war and \$8,000 for three years' enlistment. In order to raise this amount, the assembly levied a special two per cent tax on all property taxed in specie though the levy itself might be paid in produce, such as tobacco and hemp at fixed ratios.¹³ The following year in a desperate attempt to raise 3000 men a bounty of \$10,000 was offered for two years' service.¹⁴

These amounts, however, do not indicate such drastic advances as would appear from their face value for they were given in paper money. In terms of purchasing power, the money bought little. Thus the *Virginia Gazette*, a four-paged newspaper appearing weekly, increased its subscription price to \$50 yearly in 1779 and shortly thereafter charged \$20 for advertising in its columns for the first week and \$15 for subsequent insertions.¹⁵ The process of depreciation continued with such alacrity that when the act of the May Convention of 1781 was passed the scale was one unit of gold or silver for one

⁷Ibid., 321.

⁸Ibid., XI, 84.

⁹Ibid., 500; X, 275.

¹⁰Ibid., IX, 194-195.

¹¹Ibid., 612-614.

¹²Ibid., 510-512; X, 214, 200, 232.

¹³Ibid., X, 224, 228, 231.

¹⁴Ibid., 624.

¹⁵*Virginia Gazette*, December 11, 1779; February 28, 1780.

hundred fifty papers, but before the end of the year it was one for a thousand.¹⁶

The assembly offered other inducements in the form of clothes, freedom from payment of personal taxes, a daily gill of spirits if procurable, hospitalization, freedom from drafts if one secured the enlistment of a substitute for the duration of the war or delivered a deserter, support of dependents in case of a soldier's death, and retirement at full pay in the event of disablement.¹⁷ In the end, however, it became necessary to face the facts and look toward the draft as the ultimate means of salvation.

An act of the assembly which met in May 1777 provided a draft if the necessary recruits were not forthcoming by August. The militia were divided into as many lots as there were soldiers wanting to supply the quota. If any division refused to furnish a man, the officers were authorized to select one who in their opinion could be best spared and who would be most serviceable.¹⁸ The system, nevertheless, was not fully developed until the fall meeting of the assembly. At that time it was determined that only single men above eighteen years of age were eligible for the draft. All unmarried men of appropriate age were to meet for inspection and those physically handicapped dismissed. For those remaining, the word "service" was written on as many distinct pieces of paper as the number of recruits to be raised and the slips were put into a covered vessel. The word "clear" was likewise written on as many other pieces of paper as there were eligible men present. All were shaken together and then each man drew a paper from the vessel. It was read aloud and either "service" or "clear" entered on the roll opposite his name. At the time this procedure was worked out an additional bounty was offered in order to secure volunteers without the formality of a draft.¹⁹

The opposition to the draft law does not appear to have assumed drastic proportions until 1780 but thereafter it increased rapidly. On September 14 and 15 of that year a large number of the citizens of Northumberland County entered into a "most criminal and unlawful combination" to prevent the

¹⁶Journal, September, X, 472.

¹⁷Journal, IX, 472, 124-125, 244, 442-443, 443-444; X, 527.

¹⁸Journal, IX, 472-473.

¹⁹Journal, 222-223.

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levying of Continental troops. Many appeared at the courthouse in arms and others came as their abettors where they "did by Force and Threats obstruct the Execution of the Law, disturb the Peace of this Commonwealth, and murder, wound or annoy many of the good People thereof. . . ." The uprising was subdued on the second day by volunteers most of whom were officers. A court-martial was held to deal with the offenders. Some were sent to the army to serve as common soldiers for the duration of the war and others for eighteen months. A few escaped to the British army by boarding vessels which lay in the bay.²⁰

During the same fall the militia of Lancaster County assembled as a mob on the day appointed for the draft. They disarmed the officers as they came to the field and took from the county lieutenant the papers relative to the draft, thus making it impossible to carry it out. A court-martial was held and many were condemned, but the lieutenant was able to capture only a few of the offenders.²¹

The assembly tried to check the violence by authorizing courts-martial to sentence those inciting opposition against the drafts.²² It went a step further to declare that such people would be regarded as civilly dead and their property divided among their heirs.²³ Unable to cope with the situation, the assembly became more conciliatory. It at length passed a joint resolution permitting the governor to settle disturbances as he thought best, by pardon or otherwise.²⁴

In the meanwhile it was becoming increasingly difficult to carry out the draft acts.²⁵ The attitude as set forth by the colonel of Montgomery County was probably representative of that of Western Virginia as a whole.

I am very apprehensive that the number of men demanded on this occasion cannot be raised. It is the general opinion of the Officers as well as my own opinion, that nearly one half of our own militia are disaffected, & therefore cannot be drawn into the service either by threats or otherwise; & should they be punished according to Law, they would either withdraw

²⁰Col. Thos. Gaskins to Governor Jefferson, February, 1781, Palmer, Calendar, I, 526-527.

²¹Col. John Taylor to Governor Jefferson, December 5, 1780, *Ibid.*, 394.

²²Hening, Statutes, X, 234.

²³*Ibid.*, 415.

²⁴Palmer, Calendar, II, 176.

²⁵Col. James Galloway to Gov. Jefferson, March 23, 1781; *Ibid.*, I, 590; Col. Charles Fleming to Gov. Jefferson, January 17, 1781, *Ibid.*, 440; Peter Wagener to Jefferson, April 8, 1781, *Ibid.*, II, 7.

to the mountains, or embody and disturb the peace of the County. This consideration has prevented the Court Martial from putting the Law in execution against them.²⁶

Hampshire County was the scene of some of the most bitter opposition. The people in the county disliked the act for supplying the army with clothes and wagons as well as the general drafting law. The collector of one of the divisions for making up clothes and beef was "Interrupted in the execution of his office." A certain John Claypole declared that all of his mind opposing the collection should turn out. Thereupon, he collected a few men and drank George III's health and "Damnation to Congress." A warrant was issued for several of the men and the sheriff took a guard of fifty to the meeting place where in the meanwhile sixty or seventy armed men had gathered. After a time, the disaffected capitulated. Those responsible for the opposition asked the county officer for forgiveness and admitted that their conduct had not been discreet. They attributed their actions to the liquor. They declared through their spokesman that they were willing to pay the tax on beef and clothing and "likewise to be Complyable to the Laws of the State, as far as our Ability will allow."²⁷

Not long thereafter the militia of the county were repulsed from a mill held by the insurgents. John Claypole was again the leader of the discontented. His group reputedly numbering a thousand threatened to kill men, women and children so that it became necessary for the officials to request aid from a nearby county to put down the uprising.²⁸ Several of the offenders surrendered. The leaders later petitioned the governor for leniency. They pointed out that they lived in a remote section of the state where news could not easily be obtained and where they were subjected to British propaganda. They had thus been deluded into taking up arms not with the intention of overthrowing the government nor harming any individual, but with the sole aim of protecting their own liberty and property. At length the disaffected, including the ring leaders, were pardoned for "the same ignorance and unaccountable infatuation" seemed to have affected all.²⁹

²⁶Col William Preston to Governor Jefferson, April 13, 1781, *Ibid.*, 35.

²⁷Garrett Van Meter to Governor Jefferson, April 11, 1781, *Ibid.*, 28-29; *Id.* to *Id.*, April 14, 1781, *Ibid.*, 40-41.

²⁸Col. Elias Pastor to the County Lieutenant of Frederick, May 22, 1781, *Ibid.*, 113-114.

²⁹Garrett Van Meter to the Gov. of Va. at Staunton, June 18, 1781, *Ibid.*, 183-184; Garrett Van Meter to Gov. Nelson, July 28, 1781, *Ibid.*, 262; *Id.* to *Id.*, *Ibid.*, 624-625; Peter Hog to Gov. Nelson, Aug. 2, 1781, *Ibid.*, 284-285.

According to an official in Accomack County, "Anarchy, Confusion & disorder reigns triumphant amongst us." Hearing that a group of men had successfully opposed the draft in Northampton County, a number of Accomack citizens resolved to follow the example. On the day appointed for the draft almost two hundred men with clubs assembled at the court-house to oppose it. The county lieutenant tried unsuccessfully to appease the mutineers with "soothing and powerful arguments." One of the men snatched the drafting papers from the table while the others cheered. Consequently, the recruiting officers discontinued their attempts for the time being.

Two days later when a second effort was made practically the same obstructionists appeared "armed with clubs, swords, guns and pistols, and took possession of the Court house, at the door of which they placed a sentinel with his musket." They unanimously declared their intention of opposing the draft at the hazard of their lives. The clerk took the names of twenty of the insurrectionists, but this did not intimidate them. Their persistence made it impossible to carry out the law. A court-martial was subsequently held and those most involved were made soldiers for the duration of the war. A mild policy was adopted because the county was detached from state aid, neighboring Maryland would not give assistance, and the magazines were almost exhausted.³⁰

Papers were seized in other counties. One exasperated officer went so far as to suggest hanging a few of the offenders "for examples to the rest".³¹ In some cases detachments could not be marched off because there were no officers to form a court-martial to force them to go.³² In one instance the men refused to join the army because there was not a sufficient amount of money at the time to pay their bounties.³³ Some counties reported their eagerness to send recruits but were unable to do so because there was a lack of available men.³⁴ One

³⁰James Arbuckle, Charles Bagwell, and D. Bournan to Gov. Jefferson, April 23, 1781, *Ibid.*, 99-100; Col. Corbin to Jefferson, April 23, 1781, *Ibid.*, 134-136; *Proceeding of Court-Martial*, *Ibid.*, 496-497.

³¹Major Thos. Posey to Col. Wm. Davies, May 18, 1781, *Ibid.*, 107.

³²Douglas Wilkins to Gov. Nelson, July 25, 1781, *Ibid.*, 247; Col. D. Fisher to Col. Davies, August 17, 1781, *Ibid.*, 339.

³³The Commissioners of the Tax to the Executive, March 29, 1781, *Ibid.*, I, 606.

³⁴Col. Will Clayton to Gov. March 16, 1781, *Ibid.*, 575; Ed. Pendleton, Jr. to the Governor, March 20, 1781, *Ibid.*, 584; Col. James Galloway to the Gov., May 21, 1781, *Ibid.*, II, 111; Colonel John Cropper Jr. to the Governor, August 23, 1781, *Ibid.*, 202-203.

colonel assured the governor that a draft of eighteen would be "singularly oppressive". He continued:

Happy sh'd we be & readily would we spare them if our situation were but as the Legislature expected. There is scarce one fort in the county but once a month seems upon the eve of breaking for want of men to defend it—Such residents as had most property and Horses to remove their effects, have retreated to Lincoln. One half of the remainder are unable to Remove. We have no tax Commissioner in the County & almost nothing to tax. All which circumstances plead I hope in Excuse sufficiently for the Militia at present. Whenever our circumstances will admit of it, the people will, I'm satisfied enlist voluntarily in the Continental Army, for a genius they possess for war, as well as the greatness of the Bounty.³⁵

The reluctance of the Virginians to respond to the needs of the government in the later phases of the Revolution can by no means be attributed to indifference alone.³⁶ It is true that there were a large number of Loyalists in Virginia but there were pressing factors that caused men who were by choice patriots to resist enlistment, especially for a long period of time. The Western section had a particular grievance in her fear of the Indians who from time to time committed depredations.³⁷ One can readily appreciate the hesitancy of a man to enlist in an army that would take him outside his county, when he knew that his own family might be imperiled by the tomahawk during his absence.

Closely related to the Indian menace but more widespread was the natural desire of the men to provide food for their families. It was difficult to get recruits during the spring planting and the midsummer harvesting seasons. Districts that would normally fill their quota were frequently delinquent at these times. Consequently, there were numerous requests to the governor for relief from military duties. Some of these were accompanied with the statement that the men would "turn out with the greatest spirit & allacrity" so soon as the necessary work could be completed. In many cases the only force strong enough to take the men from their work at the critical periods was a threatening enemy.³⁸

³⁵Col. John Todd to Gov. Jefferson, April 15, 1781, *Ibid.*, 45.
³⁶For Disaffection and Loyalism in Virginia see Isaac Samuel Harrell, *Loyalism in Virginia* (Durham, 1926). H. J. Eckenrode, *The Revolution in Virginia* (Boston, 1916). Edward Channing, *A History of the United States* (New York, 1920) III.
³⁷Col. Wm. Preston to Jefferson, April 13, 1781, Palmer, *Calendar*, II, 33; Col. Arthur Campbell to Governor Jefferson, June 4, 1781, *Ibid.*, 143; Col. Wm. Preston to Governor Nelson, July 28, 1781, *Ibid.*, 264-265.
³⁸Col. Wm. Preston to Jefferson, April 10, 1781, *Ibid.*, 23; Sam McDowell to Jefferson, April 26, 1781, *Ibid.*, II, 32; Brigadier General Lawson to Jefferson, May 1, 1781, *Ibid.*, to Jas. Harbord to the Governor, May 2, 1781, *Ibid.*, 32; Col. George Sillars to Gov. Nelson, June 26, 1821, *Ibid.*, 183.

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The destitute circumstances of the army as the war dragged on played their part in deterring others from enlisting. The inadequacy of clothing was frequently reported: "Many men have not a remnant of clothing larger than a good napkin to cover their nakedness, and a number of these are dependent upon others for a part of a blanket to shelter them at night from the cold."³⁹ According to one officer his men were "all as naked as when they were born."⁴⁰ Other detachments were "in a very ragged condition, some of them almost reduced to a state of nature & falling sick for want of cloaths sufficient to keep them warm whilst on duty in the night or in wet weather."⁴¹ Not only the men but also the officers suffered, as is evident from a pitiable request.

When a man is destitute of money, cloaths and friends: he is in my opinion an object of pity—whether this may be my case or not, I will leave it you to judge, when I tell you that I am really destitute of the two former, and if I don't find the latter in you, I am absolutely lacking of the whole—My dear Sir, you was an eye witness to the hard duty I perform'd at Chesterfield & you may well know likewise that I have never drawn a farthing of pay since I have been in service: & when cloathing was to be had, I wou'd get nothing but a shirt & a pr: of shoes—The cloathing I brought from home is now worn out & I can scarce hide my nakedness, and as you are the only person that can befriend me in this case, I most humbly request you to give me an order for such necessaries, as you may think proper . . ."⁴²

In some cases the men had to return home in order to be clothed.⁴³ Others were so naked that they refused furloughs because they were ashamed as well as unable to travel during the winter season. Even when clothing was to be had it was frequently distributed in a most unfortunate manner: "A good pair of Stockings is given to a naked soldier to-day; he has no shoes, and wears them out by the next week, and in a fortnight afterwards, when his Stockings are gone he gets his shoes. Or perhaps he gets breeches but no lining to them; and a coat or a fashionable hat, but has no shirt, or if he has he is without breeches."⁴⁴

Not only were the troops harassed in the last years of the war by a lack of clothing but also at times by a scarcity of food.

³⁹Col. Wm. Preston to Jefferson, January 23, 1781, *Ibid.*, I, 462-463.

⁴⁰Major John Mozart to Jefferson, February 23, 1781, *Ibid.*, 536.

⁴¹Lt. Col. Thos. Gaskins to the Governor, September 19, 1781, *Ibid.*, II, 462.

⁴²Petition to Col. Davies, July 8, 1781, *Ibid.*, II, 303.

⁴³Gen. Nathaniel Green to Governor Jefferson, December 14, 1780, *Ibid.*, I, 328-329.

⁴⁴Col. Wm. Davies to Governor Jefferson, January 23, 1781, *Ibid.*, 462-463.

What was available was inferior in quality. Beef in particular was poor; on occasions it was little better than carrion.⁴⁵ Hospitalization facilities were meager. Thus, a hospital of seventy patients was "entirely destitute of every article, except a few pounds of Rice, that can render them comfortable, or hasten their recovery."⁴⁶ The necessary fighting equipment was also frequently deficient or entirely lacking. Even on the approach of Cornwallis in the spring of 1781 some of the militia already raised had to be sent home because they had no arms.⁴⁷

If one adds to these grievances the general disaffection of the country, a frequent lack of pay,⁴⁸ and the fear of smallpox,⁴⁹ he will strike at the heart of one of the perplexing problems facing the military and civil officials of Virginia—the prevalence of desertion. Legislative attempts were made to check it, rewards were offered for surrendering deserters, penalties were levied for concealing them, and pardons were offered for surrender and reenlistment but all to no purpose. Desertion continued unabated. In some instances a draft produced one-third soldiers and two-thirds deserters.

Many of the factors deterring enlistment were only accentuated by drafting into service. As drafting thus became a handmaiden to desertion, so desertion became an ally of the factions opposing drafting. Drafting and the consequent opposition to it were alone clear indications that all was not well in the old Dominion.

⁴⁵Col. J. Wood to Governor Jefferson, February 20, 1781, *Ibid.*, 329; J. Parker to Governor Nelson, June 29, 1781, *Ibid.*, 120; James Hendricks to Col. Davies, September 20, 1781, *Ibid.*, II, 471; Governor Nelson to Mr. Pierce, September 20, 1781, *Ibid.*, 472; Charles Dick to Col. Wm. Davies, October 22, 1781, *Ibid.*, 505.

⁴⁶Wilson to Col. Wm. Davies, June 27, 1781, *Ibid.*, 120-127.

⁴⁷Thos. Read to the Governor, April 7, 1781, *Ibid.*, 17; *Id.* to *Id.*, April 4, 1781, *Ibid.*, 21; *Id.* to *Id.*, April 20, 1781, *Id.*

⁴⁸Col. Arthur Campbell to Governor Jefferson, June 4, 1781, *Ibid.*, 143.

⁴⁹Col. Jas. Innes to the Governor, July 29, 1781, *Ibid.*, 227.